



Montana Fish, Wildlife & Parks

Region One
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Kalispell, MT. 59901
Fax: 406-257-0349
Ref: JS047-10
May 6, 2010

Flathead County Planning Board &
Flathead County Planning & Zoning Office
Earl Bennett Building, 2nd Floor
1035 1st Avenue West
Kalispell, MT 59901

RE: L-T-R Zoning Proposal

Dear Planning Board Members and Planning Staff:

In follow-up to the April 21, 2010, workshop, I'd like to reaffirm some of the concerns that Montana Fish, Wildlife & Parks provided in our November 16, 2009, letter. Outlined below are suggestions that we believe would more effectively encourage use of an L-T-R zoning district and thereby help to conserve the fish, wildlife, recreational, and other traditional natural resources in Flathead County.

- **Scope of Zoning District.** As you know, the agricultural lands in the Flathead River corridor and valley bottom are important to our local economy and environment. Their productive soils, the availability of water, and the river-related system of floodplain-wetlands-riparian areas provide a unique set of resources that have effectively served to maintain both wildlife habitat and traditional agricultural production. However, in recent decades economic factors have placed great development pressure on these lands, and agricultural operations have been steadily replaced by homesites. As noted in the 2007 Flathead County Growth Policy: "A primary concern of residents is the conversion of farmlands into residential developments. The conversion of these lands affects the rural community character, water quality, water supply, and wildlife habitat." (p. 129)

We believe the proposed L-T-R density bonus provisions could actually promote continued erosion of the county's agricultural and riparian habitat base, rather than support traditional farm operations. To our knowledge, agricultural landowners have not been actively involved in the L-T-R discussions to date.

We recommend that at this time the county remove agricultural lands from the L-T-R proposal, and initiate a follow-up effort to design a new zoning district option for productive agricultural lands. Such a zoning district could offer incentives for clustered development and/or transfer of development rights, and better accomplish the goal of protecting what's left of our

traditional agricultural/river and wetlands corridor lands. FWP would be willing to work with the county and landowners to design such a zoning district.

- **Site Selection Criteria.** We support the county's recent proposal to reduce the automatic density bonuses for subdivisions located near services (e.g. paved roads and within rural fire districts) so that the cluster criteria are more likely going to be used by developers. However, we remain concerned that these initial site selection criteria do not adequately consider the possibility of a development proposed on these lands that have extremely high resource values or a high degree of sensitivity to development. We suggest that the L-T-R zoning district offer a still lower density bonus for development near services, but increase density bonuses if the development conserves functional open space, particularly on lands that include or are located in close proximity to vitally important conservation areas (defined below) or resource areas (e.g., critical habitats for endangered species or other wildlife). We provide a definition for functional open space below. Developers would be strongly encouraged to avoid or minimize impacts to these higher quality fish or wildlife resources by getting increased density, but clustering that development footprint and creating functional open space to protect natural resources. This policy would be consistent with the county's Growth Policy that points out: "The biggest threat to fish and wildlife is habitat loss." (p. 126) To achieve this goal, **we recommend that the county make a further reduction in the density bonus values assigned to the site selection criteria and in exchange for additional density assigned to site-design criteria (see Table 1).**
- **Site Design Criteria.** We suggest the addition of an incentive for proposed subdivisions that do not encroach into important wildlife habitats overall and as stated above. **We recommend that the county add a density bonus for proposed subdivisions that avoid important wildlife habitat and/or are situated ½ mile or more from designated conservation lands (see Table 1).**

We believe that the density bonuses assigned to the clustered development/open space scenarios (50-75%, >75%) are still overly generous. Human development introduces disturbances (e.g., pets, noise, lights, traffic) beyond the immediate building envelopes, and in many cases, the open space may not be sufficient to really protect natural resources values. How the proposed open space is configured is an extremely important factor determining whether or not that open space remains functional and able to support continuation of the traditional resource uses it is meant to protect. **We recommend that the county lower the density bonuses for these site design criteria and apply greater density bonuses to conservation of *functional* open space as defined below.**


- **Summary Table of Density Bonus Opportunities.** To simplify the density bonus system, one table could be designed to reflect all density bonus opportunities. Such a table would provide a menu – and summary – of the options available to a landowner.  **We recommend that the county consider the table of density bonus opportunities provided below.**

Table 1. Proposed Density Bonus for L-T-R Zoning District.

Site Selection and Site Design Criteria Criteria can operate separately for limited density bonuses, or they can be combined to obtain higher density bonuses.	Density Bonus Opportunities (Add to base density of 1 unit per 40 acres)
Property is located within 1 mile of paved road, within RFD boundary, or both.	1 unit
Proposed building sites and other development design features avoid important wildlife habitat (as identified and mapped by FWP or Flathead County) and/or are located ½ mile or more from designated conservation lands.	2 units
Functional open space is maintained, and development is clustered on rest of property. <ul style="list-style-type: none"> • >50% - 75% functional open space • >75% functional open space 	2 units
	3 units
Relocation of off-site density.*	4 units
Maximum possible density bonus opportunities.*	10 units

Put as Site Design

*This could be applied until reaching the maximum density allowed for this district.

- **Definitions – We recommend that the county add the following definitions to support the table above:**

Clustered Development. A pattern of residential, commercial, or mixed use development wherein building sites are grouped together in one or two areas, with the remainder of the property left undeveloped.

Designated Conservation Lands. Lands that are: (1) designated as having biological, recreational, or conservation values; (2) managed for specific purposes related to these values; and (3) protected from most types of conversion. Examples: national wildlife refuge, waterfowl production area, research natural area, national forest, wildlife management area, and other state or federal lands, county parks, and conservation easements on private lands.

Functional Open Space. Land areas maintained in an essentially undeveloped state for active or passive park or recreation purposes, wildlife habitat conservation, or other natural resource protection purpose. Functional open space calculations shall exclude road and above-ground utility easements and rights of way, building sites (except for recreational facilities designed to accommodate low-impact activities), and other areas that are undevelopable according to local/state/federal regulations or commonly accepted building practices. Functional open space should maintain one or more large blocks of undeveloped land, with functional connections to adjoining open spaces.

- **Overall Development Plans.** As the L-T-R proposal is currently drafted, the ODP provisions allow ODP applicants to set the standards for a particular project. We are concerned that the applicants will not know what is expected of them, in terms of avoiding or mitigating negative impacts on wildlife habitats. **We recommend that the county add the following Wildlife and Recreational Resource Protection Guidelines that each proposed ODP should reflect.**

1. ODP proposes open space that encompasses the most important fish and wildlife habitats on the property.
2. Wherever possible, proposed open space of one tract is contiguous with open space of adjoining tracts.
3. ODP encourages maintenance of functional open space areas and wildlife corridors.
4. ODP shows how proposed development will protect and buffer habitats for species listed as threatened or endangered, and other species of concern.
5. ODP shows how proposed development will protect big game winter ranges and other important wildlife areas and corridors.
6. ODP minimizes site disturbance by encouraging roads and driveways to follow existing contours; minimizing disturbances from the construction of roads, basins, grading, and other improvements; implementing weed control measures; using native plants for landscaping and restoration around new development.
7. ODP minimizes disruption of natural ridgelines or steep slopes.
8. ODP minimizes total road densities by utilizing existing roads as much as possible to minimize the need for new road construction.

Thank you for the opportunity to offer these comments. FWP staff would be happy to provide additional input to help address these issues.

Sincerely,



James R. Satterfield, Jr., Ph.D.
Regional Supervisor

c: Gael Bissell
Doris Fischer
John Vore
Jim Williams

3.44.090(1)(B)
Baselining
3.44.090(1)(M)
Add a new
letter under
Long Term Direction
Incorporating these
principals

Robert S. Rosso, PE
PO Box 1032
Lakeside, MT 59922
406-844-3660

May 16, 2010

Flathead County Planning Board
c/o Flathead County Planning and Zoning Office
1035 First Avenue West
Kalispell, MT 59901

Re: Large-Tract-Rural Zoning District

Dear Board:

While the proposed Large-Tract-Rural Zoning has been much improved since the original draft last fall there are several important parts that need to be improved before it will meet the stated definition and objectives of preserving open space, protecting natural resources while allowing traditional resource uses and encouraging cluster development.

Creating Open Space

Several times during the Workshop held April 21, 2010 Board members stated the importance of creating open space. I agree this is an important function for this zoning. However, awarding a density bonus for existing areas of lakes and wetlands does not create open space or protect those important natural resources. To reward development that truly creates open space a density bonus must **not** be given for surface waters and wetland areas that are undevelopable already. Developers that are willing to set aside developable land for open space are truly making a contribution to the community and deserve rewards. It is not at all fair for developers that develop a tract that happens to include 50% surface water should automatically receive a density multiplier of 4 while a developer of a tract without surface water actually has to set aside 50% of his developable land to receive the same density bonus.

Because the setback area and buffer around lakes, streams, and wetlands are so important for protection of our natural resources those open spaces deserve more consideration. To create an incentive to protect our surface water I suggest you consider awarding twice the open space credit for additional acres in setback and buffer area around these natural water features. As an example, a 320 acre tract with a natural 60 acre lake and wetland area is planned for development. The developer proposes to set aside 80 acres of traditional developable land (this land must not include the lake, wetlands, or slopes too steep for development) and set aside an additional 250 ft. buffer (300 ft. total setback from the mean high water mark) around the lake and wetland area. Assuming a reasonable shape for the lake and wetland area this buffer contains 40 acres. By doubling the 40 acre buffer area and adding the traditional 80 acre open space the total credit for open space would be 160 acres, even though the actual open space is only 120 acres. The

Site Design adjustment would provide a multiplier of 4 for this development, rewarding the developer for increasing the buffer to protect the lake and wetlands.

Cluster Development

Encouraging cluster development is another important part of this proposal as stated in the very first sentence. However there is no further mention of cluster development much less a program to encourage it. Cluster development requires the lots all be grouped together and not scattered across the entire tract. The benefits of this design include lower costs to provide and maintain services and creating open space that more effectively benefits the environment, natural resources and wildlife.

Simple geometry provides a way to quantify cluster development and can be used to create incentives to encourage clustering of lots in a development. Lots organized to fill the area inside a circle will have the smallest perimeter for a fixed number and size of lot. Lots strung out in a single row or separated by open space would have a very large perimeter for the developed area. The ratio of developed area to the perimeter of the developed area is a measure of the degree of clustering.

I have used Example 4 from the proposal. A 640 acre tract being developed with 75% open space results in 144 permitted lots in 160 acres. To simplify this example I have ignored the roads and assumed all the lots will be 220 ft. x 220 ft. (144 lots of this size cover 160 acres). If the lots are in a single row the perimeter of the developed area would be 63,800 feet. By dividing the total area, 160 acres or 6,969,600 sq. ft., by the perimeter of 63,800 ft. yields about 109 ft. This is the Area/Perimeter ratio or A/P ratio. If the lots are in four rows of 36 lots the perimeter would be 17,600 ft and the A/P ratio is 396 ft. If the lots are clustered into a perfect square of 12 rows of 12 lots the perimeter would be 10,560 ft. and the A/P ratio is 660 feet. In the worst case where the lots are scattered across the tract and no lot shares a boundary with another the perimeter is 126,720 ft. and the A/P ratio is 55 feet. The more clustered the lots, the larger the A/P ratio is.

To impliment this the zoning regulations could require development designs that have an A/P ratio greater than 400 or 500 feet. Or cluster development can be encouraged by increasing the open space credit for larger A/P ratios. I suggest considering a system that would multiply the open space credit by the A/P ratio divided by 300 feet to start with. If the A/P ratio is 400 ft the multiplier would be 1.33 and the developer would get credit for 75% open space even if the actual open space was only 57%. This would reward developers that design their plat in a way to maximize the benefit of the open space through careful clustering of the development. It should be noted that this system could result in multipliers less than one requiring developers with poorly clustered designs to provide more open space to get the desired density bonus.

A study of typical developments may result in modifying the 300 ft. threshold to encourage a degree of clustering that is both more effective and reasonable for developers. Today's computer drafting programs that are used extensively in subdivision

development design can calculate areas and perimeters with just a few key strokes making implementation of this system relatively simple.

Ground Ambulance Service

The final part of the proposal that I think needs improvement is the site selection criteria. Rural development, especially higher density development, can create a high cost to taxpayers for providing county services. To protect taxpayers and provide better emergency service to residents of the development site selection criteria B should include ground ambulance service. I suggest criteria B read, "Within rural fire district boundary where ground ambulance service is also provided."

These changes will improve the Large-Tract-Rural Zoning proposal by creating real incentives for developers to cluster development, create open space, protect our water resources through increased buffers and protect taxpayers and residents with emergency services at reasonable costs. The changes in the site design adjustments will also reward developers that make a real contribution by setting aside acreage for productive open space that otherwise would be developable land.

Please consider my suggestions. With these changes I, and I hope many others, will consider supporting the Large-Tract-Rural Zoning proposal.

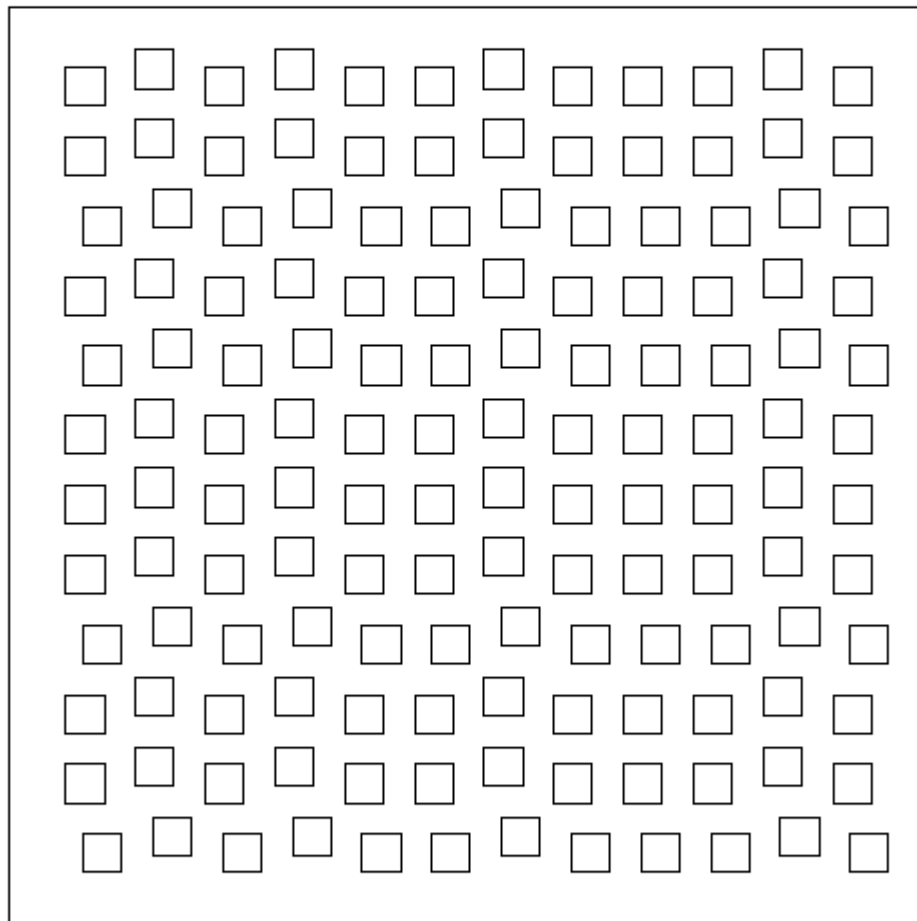
Respectfully,

Robert S. (Steve) Rosso, PE

640 ACRE TRACT (5280 FT. X 5280 FT.)
75% OPEN SPACE
144 LOTS 220 FT. X 220 FT.

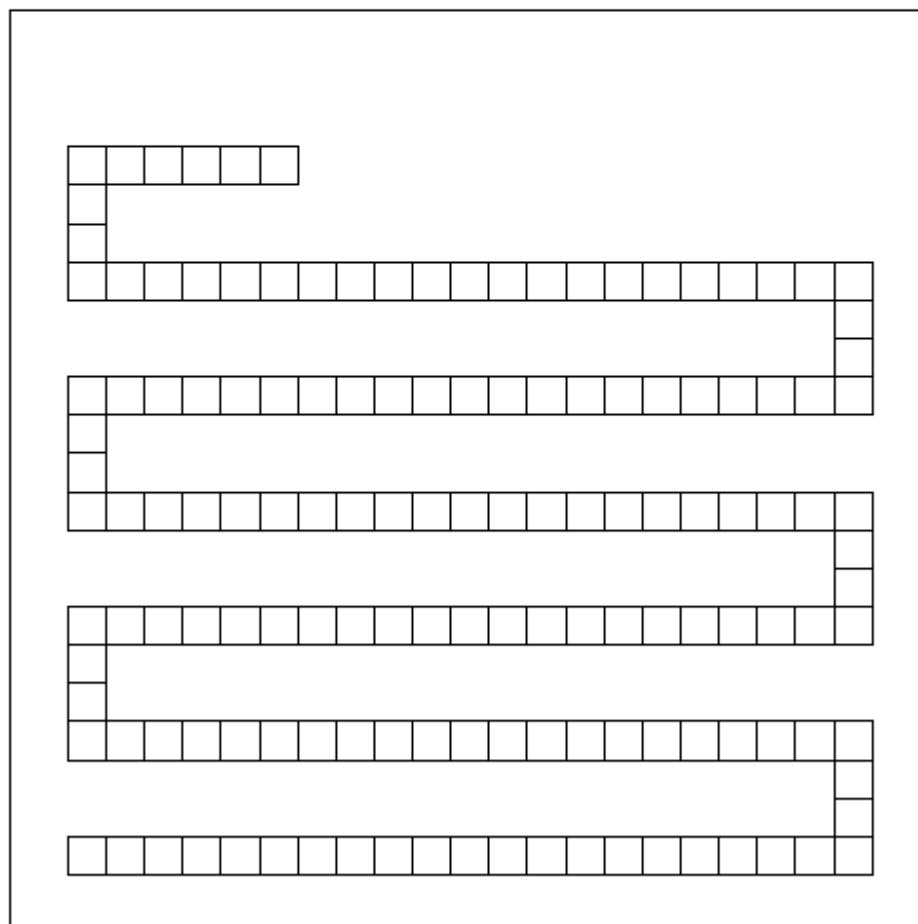
DEVELOPMENT DESIGN SCATTERS LOTS ACROSS THE TRACT
AND THE LOTS HAVE NO COMMON BOUNDARIES.

AREA = 6,969,600 SQ. FT.
PERIMETER = 126,720 FT.
A/P RATIO = 55 FT.



144 LOTS 220 FT. X 220 FT.

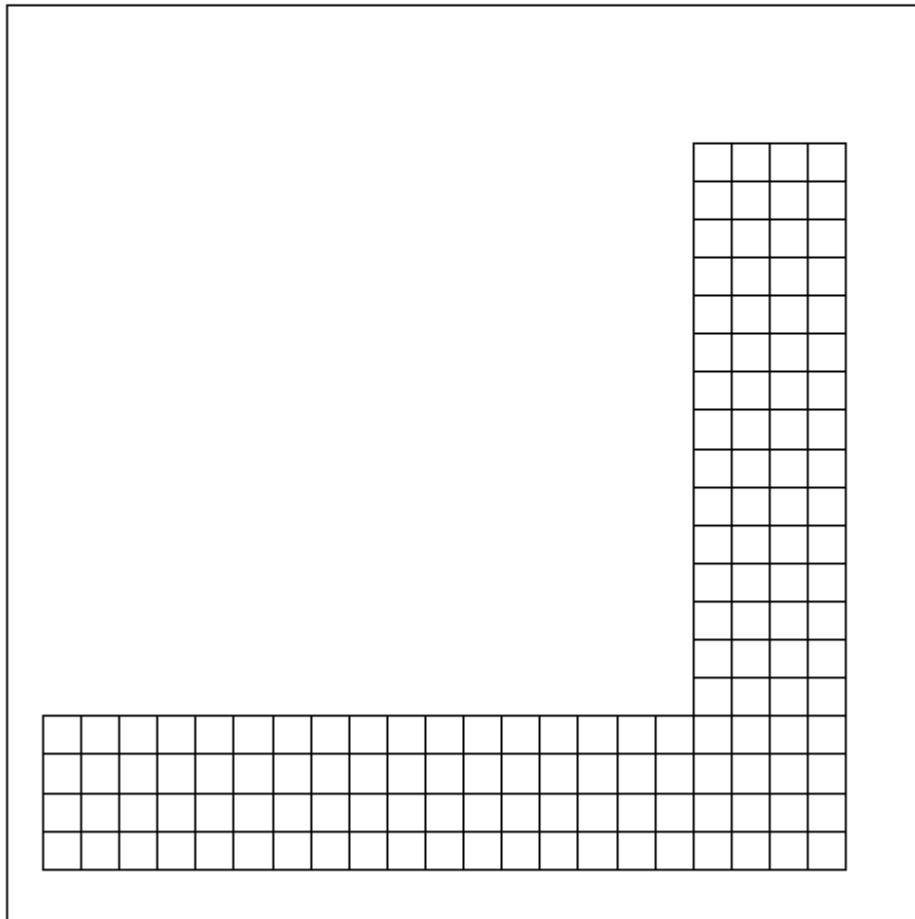
A/P RATIO = 109 FT.



640 ACRE TRACT (5280 FT. X 5280 FT.)
75% OPEN SPACE
144 LOTS 220 FT. X 220 FT.

DEVELOPMENT DESIGN LOCATES THE LOTS IN FOUR
ROWS OF 36 LOTS.

AREA = 6,969,600 SQ. FT.
PERIMETER = 17,600 FT.
A/P RATIO = 396 FT.



640 ACRE TRACT (5280 FT. X 5280 FT.)

75% OPEN SPACE

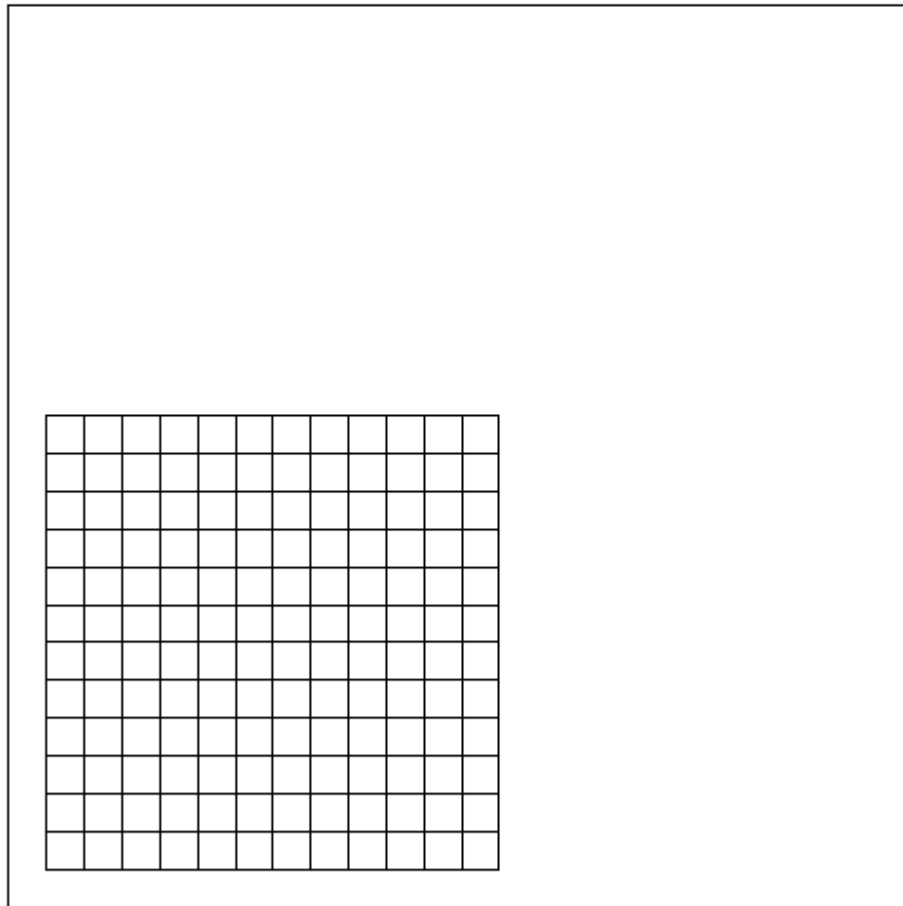
144 LOTS 220 FT. X 220 FT.

DEVELOPMENT DESIGN LOCATES THE LOTS IN A
PERFECT SQUARE OF 12 ROWS OF 12 LOTS EACH.

AREA = 6,969,600 SQ. FT.

PERIMETER = 10,560 FT.

A/P RATIO = 660 FT.





To: Flathead County Planning Board for 4/21/10 workshop on LTR Zone

Please accept the following additional comments on the LTR Zone based on the 4/07/10 Draft



Our comments are divided into five sections:

- 1) Areas of general support.
- 2) Areas of general concern that we believe still need to be addressed to meet the intent of state zoning laws and other relevant statutes as well as compliance with the governing guidance of the Flathead County Growth Policy.
- 3) General Recommendations to reframe and improve the LTRZ
- 4) Specific comments on sections of the 4-7-10 LTRZ Working Draft.
- 5) Additional questions.

Areas of General Support - We recognize and support:

- The importance of natural resource lands to our local economy, to the special character of our valley, and to the future viability of our water quality and wildlife resources.
- The goal of retaining access to public lands and to the tradition of public access to private working lands for hunting, fishing, and recreation where possible.
- The need to provide new and effective land use tools that guide growth away from critical wildlife and other sensitive natural resource lands while providing for connectivity between areas set aside for conservation.
- The need to provide a land-use development process that provides greater predictability for all. We equally advocate for ensuring that the zoning tool developed meets the purpose of zoning, as stated by the Montana Supreme Court on a number of occasions--- the purpose of zoning is not to provide for the highest and best use of each particular lot or parcel of land within the community, but rather it is to benefit the community generally by sensible planning of land uses taking into consideration the most appropriate use of land throughout the community. Development that results in benefits for the general welfare of the public includes healthy ecosystems, which provide a basis for this general welfare benefit to the community.

Areas of General Concern

- Failure of this current draft to provide a more comprehensive framework for the LTR zone to avoid "spot zoning claims" or to meet the stated intent of the zone, that of protecting traditional uses on natural resource lands. (See comments on the LTRZ by Attorney Roger Sullivan submitted to this board on October 21, 2009.)

- Failure to define a limited geographical area where this zone is most appropriate. Failure to provide a rationale compliant with the purpose of zoning as to why this zone and its allowances for “any use” should be applicable anywhere in the county, including in areas of important farm lands, in existing zoned areas, along highways and major roads where it provides a tool for strip commercial sprawl between exiting towns, and on state lands in general.
- Provisions that allow disconnected parcels anywhere in the county to be included in a LTRZ. This opens a Pandora’s box of potential undesirable consequences including, for example, spot insertion of high density mixed uses in an area of prime agricultural use that undermines the viability of agricultural uses in the area. **As drafted the LTRZ essentially says: propose any use any where, and though a contentious political process that has no clear standards and only a broad and general growth policy to guide it, the commissioners will decide on a case by case basis if your project flies!**
- The potential intrusion of very high density mixed, uses in a haphazard manner, into remote rural areas rather than upfront identification of appropriate sending areas for density, generated through the density bonuses in LTR zones.
- Vague and inadequate standards to sustain wildlife and water quality resources. The proposed zone does not explicitly protect important resources such as groundwater, farmland, wetlands, floodplains, steep slopes and critical habitat.
- More uncertainty than predictability for all concerned.
- Not user friendly, too complex.
- Overly generous density bonuses resulting in build out potentials that undermine the resources the zone is intended to retain as well as build out potentials that are not supported with plans for provisions of adequate services and infrastructure.
- As development occurs and public roads and fire districts are extended, higher density development is extended further into remote rural lands rather than directing that grow to more appropriate town-centered locations. Site Selection density bonuses are a flawed tool and should be dropped.
- Failure to identify, up-front, the most appropriate locations or “sending areas” for the potential density build-out created by the application of this zone on large holding of private land in the county.
- The draft code mentions that ODPs will be subject to environmental review and that they must “effectively establish a consistent connection with the growth policy.” The growth policy states that environmental resources including important resources such as groundwater, farmland, wetlands, floodplains, steep slopes and critical habitat, should be avoided. But the draft L-T-R zone sends mixed signals on this score. The Composite Map suggests that the Flathead River Valley is appropriate for bonus density because it has the three criteria needed to get up to three times baseline density (without even preserving open space). But the growth policy has maps showing that this valley is environmentally sensitive due to farmland, high water table, floodplains and more.

In summary, the proposed L-T-R zone is too complicated, too generous and too vague about environmental protections. See the following comparison chart of LTRZ to Seeley Lake Regional Plan¹. Each provides a unique model to guide future growth on rural county lands, but we believe the Seeley Lake Model provides a better, and necessary, comprehensive framework needed to underlie and justify the creation of a new zoning district.

The take-home message from this chart is that given the long-term build out potential under LTR zoning in Flathead County, and even under scenarios limited to only 52% of the private lands, the potential long-term lot development build out is equal to or in excess of more than twice the existing housing units in the valley with no clear direction on where this density should be located. It is vital to step back now and to revisit both over-generous density allocations and the most significant question of where are the most appropriate locations to direct this potential new density. As proposed, the LTRZ places undue emphasis on creating density bonuses without directly identifying how to sustain and protect important resources such as groundwater, surface water, farmland, wetlands, floodplains, steep slopes and critical habitat. Development should be avoided and density and mixed uses should be directed away from such important resources. **The fundamental purpose of zoning is to establish where certain land uses are appropriate and at what density, and where they are not. As proposed, the new LTR zoning fails to meet these basic criteria.**

General Recommendations to reframe and improve the LTRZ

- Define a limited geographical area and rationale to support this selection where a LTRZ is appropriate. (Example of a potential improper application under current LTRZ would be a recent zone change proposed between Whitefish and Kalispell for highway commercial mixed use on 320+ acres).
- Inventory and protect, with clear standards and criteria within the zoning text, important resources such as groundwater, farmland, wetlands, floodplains, steep slopes and critical habitat.
- Ensure and provide a factual basis that the zone's stated purpose "to protect natural resource based uses in rural areas" is consistent with the potential impacts from the proposed permitted uses and density of uses proposed.
- Reduce the density bonuses to be more consistent with the level of services and infrastructure needed to support the potential build out of the zone.
- Review and establish an appropriate receiving area for density generated by application of this zone. Much of the potential private timber land this zone is intended to protect is located/concentrated in a limited area of the valley. Perhaps it is reasonable to consider identifying upfront a new town center as a receiving area where new density should more appropriately be directed.
- Allow concentrations of density above the baseline up to one unit per acre (and more if sewage built) only to land free of all environmental constraints and consistent with guidelines for the location of development found in the growth policy and other applicable plans and regulations.
- Density above baseline should only be achieved by preserving open space and/or providing public access for reaching other public lands or providing other traditional access uses such as hunting and recreation.

¹ **Link to Seeley lake plan**

ftp://www.co.missoula.mt.us/ruralftp/SeeleyLakeRegionalPlan/PIBdDraft_October2009/PIBdDraft-entire.pdf

Advantages of Reframing and Improving LTRZ

- Eliminates unintended consequences like granting bonus density when no preservation has occurred or granting bonus to an entire site when only a portion of the site actually meets the criteria for the bonus
- Actually achieves the stated primary goal for this zone of preserving land for primary industries and their benefits to the local economy
- Allows substantial development but only on non-environmentally sensitive land and sites consistent with the growth policy as well as other plans and regulations. (For a 200,000-acre area, assume a 5,000-acre new town with 5,000 dwellings surrounded by 195,000 acres of preserved open space.)
- Creates great predictability for all involved.

A Comparison of the Proposed Flathead County LTR Zone and The Missoula County Seeley Lake Regional Plan Build-Out Potentials (Each provides a unique model to guide future growth on rural county lands) 4/20/10		
	Large Tract Rural Zoning	Seeley Lake Regional Plan
Total area covered by policy	May be applied anywhere in the county that includes 320 acres or more, of single or multiple owners, and on un-zoned or zoned lands	Defined geographical area including 388 sq miles of a defined rural area of Missoula County
Selective Build-Out Comparison of Similar Area/acreages ²	310,000 acres of rural private forest lands that comprise 52% of the privately owned land in Flathead County	109,261 acres---the total rural privately owned land within the Seeley Lake Plan; includes approx. 86,912
Potential build out on these selected LTRZ lands using only site selection density bonuses and assuming that over time these lands will all easily meet density-site selection criteria as roads are paved ³ and fire districts are expanded. In this scenario a developer can choose to use only site selection criteria to increase density and is not required to set aside any open space. ⁴	310,000/40=7750 developable units, then add 7750 x 3 site selection bonus units = 23,250 units. 7750 base units plus 23,250 site selection bonus units = 31,000 units of development permitted on 310,000 acres or 1 unit per ten acres on average. ⁵	Note: Flathead County currently has approximately 35,000 homes

² Selected areas include similar rural forestlands. The 310,000 acres of LTRZ lands include 258,846.21 acres of Plum Creek Timber Lands, with the remaining 51,153.79 are other privately owned forested timberlands in the Flathead County (figures taken from the Flathead Growth policy). The privately owned lands included for comparison from the Seeley Lake Plan are all of the privately held developable lands in the plan area and are composed of 86,912 acres of Plum Creek Land and 22,349 acres in other lands in private ownership. (Note that 248,320 acres in the Seeley Lake Plan area are owned by the US Forest Service.

³ To meet this criteria proposed development/residences must be within one mile of a paved public road. The proposed development/residences must be within or annexed into a fire district.

⁴ If permanent open space is created on 50% or more of the land more density bonuses are available. Open space can be unbuildable land like floodplain or steep slopes. Open space must be secured in a permanent conservation easement.

⁵ Density bonuses are based on all acres, even if unbuildable. Development may occur at one unit per ten acres or at a much denser level as units may be grouped in to smaller clusters of development.

	Large Tract Rural Zoning	Seeley Lake Regional Plan
Potential build out in Seeley Lake Plan (no density bonuses are offered currently in this plan; though the plan allows for a potential future TDR program. We are not aware of the use of any density bonuses comparable to the site location density bonuses used in the LTRZ, being used anywhere else.)	Note that Seeley Lake acres compared here are one third the size/acres of the LTRZ acres. The Seeley lake plan offers significantly less density per acre, one unit per 14 acres over all as compared to the LTRZ with one unit per 10 acres.	There are currently 1,842 dwelling units in the plan area. Under the updated plan another 5,919 dwelling units may be added to the existing 1,842 DUs across the 109,261 acres or one unit per 14 acres on average. Unlike the LTRZ, the Seeley Lake Plan has planning areas where the density is capped and numerous standards that must be met to retain the environmental integrity of the area. Density on what have been identified as Resource Protection Lands (RP) is limited to these four categories: RP-1 one unit per 640 acres, RP-2 one unit per 160 acres, RP-3 one unit per 80 acres, and RP-4 one unit per 40 acres. Residential Town areas are 4 units per acre, and are ringed by Residential areas of one unit per one to two acres, and Rural Residential are one unit per five to ten acres.
LTRZ build out potential on 310,000 acres with site location density bonus, and density bonus from 50 to 75% set aside of open space	310,000/40=7750 developable units, then add 7750 x 3 site selection bonus units = 23,250 units. 7750 base units plus 23,250 site selection bonus units = 31,000 plus 7750 x 5 density bonus units for 50-75% open space from within the LTRZ district=38,750 added on to the 31,000 units = 67,000 density units over 155,000 (310,000/50%) acres or one unit per 2.3 acres. 155,000 acres would be set aside in permanent open space.	Does not have such density bonuses.
LTRZ build out potential on 310,000 acres with site location density bonus, and density bonus from 75% or more set aside of open space	310,000/40=7750 developable units, then add 7750 x 3 site selection bonus units = 23,250 units. 7750 base units plus 23,250 site selection bonus units = 31,000 plus 7750 x 7 density bonus units for 75% or more open space from within the LTRZ district=54,250 added on to the 31,000 units = 85,250 density units over 77,500 (310,000/75%) acres or one unit per .9 acres. 232,500 acres would be set aside in permanent open space.	Does not have such density bonuses.

Specific comments on sections of the 4-7-10 LTRZ Working Draft.

3.44.020

15. *"Uses provided for in an approved overall development plan."*

- Comment: Allowing **any** use included in a ODP, which have the potential to be located any where in the county this district is applied, is an overly broad application of this zone given the lack of standards, potential density, and lack of direction for the appropriate location of proposed uses.
- Comment: Wording in the intro to this section that states "uses are permitted on lots of any size", conflicts with 3.44.040 which sets lot widths and setbacks

3.44.030

- Comment: When residential use areas are created from density bonuses or subdivision, a much more limited set of conditional uses should apply.

3.44.040

- Comment: This section should be revised to prevent LTR zoning districts that do not share common perimeter boundaries from transferring density from say remote steep or unbuildable land to say prime ag land.
- Comment: Allowing the annexing of any adjoining parcel of any size into a LTRZ may have unintended consequences like encouraging strip development along highway. This allows districts to evolve endlessly and these impacts may not be considered in EA's and ODP's. Standards to prevent abuse of this option should be adopted.

3.44.040.C

- Comment: No lot lines in perimeter buffer
 - Is this good or not good? Cumulative impacts of this should be explored further and comments from Fish Wildlife and Parks should be solicited.
 - What about fencing, wildlife (pro and cons)?
 - Who owns it?

3.44.040 (8)

- Storm water impacts are of concern with this lot coverage permitted. Are there more appropriate lot coverage/storm water standards that should be established to address that this zone is intended for forested areas that often have steep slopes and shallow soils? Location and size of development may be a key factor.
- Studies around the country have shown that when as little as eight to twelve percent of a watershed surface consists of impervious surfaces, aquatic life is adversely impacted (EPA 2005b).
- The identification of environmentally sensitive areas, also referred to as critical conservation areas, is an essential component of a watershed protection program. These areas need to be identified to:
(1) avoid developing areas susceptible to erosion and sediment loss; and
(2) preserve areas that provide important water quality benefits, such as wetlands, permeable soils, forested buffers, and riparian areas. Inventories of these areas can be developed using wetland inventories, soil maps, maps of critical habitat for endangered species, GIS tools, remote sensing, vegetative cover inventories/maps, and forest inventories, among other sources.

3.44.060

LTR needs to require that:

- Lands over 30% slope, floodplain, wetlands, water (lakes, streams, rivers), areas of shallow groundwater (4 feet or less), not be included in calculations for average density.
- If a developer does a subdivision on less than 320 acres but opts to do an ODP, can the developer qualify for 1 unit per acre average? Why wouldn't a developer always choose to do an ODP to get higher density since an ODP is not much more than an EA that would already have to be done (see ODP requirements 3.44.090).
- Using distance from paved public road is meaningless criteria as developers frequently build roads to remote areas like Haskill Mountain Ranch. Developers will just keep adding on to roads, pushing development further into remote rural areas. The same is true of expanding fire districts.

3.44.060 (3C)

- Standards are needed that will demonstrate that a fire district can expand and reasonably serve large rural areas with volunteer staff and limited equipment. Fire hall has not been defined. Could be an empty building, could not have adequate staff etc. Need to identify standards for equipment and staff available.

3.44.060 (4F)

- Requires that open space allows all "traditional uses", but what are these traditional uses, a 200 acre gravel pit?
- (F) should not be a criteria for open space. Natural resources may need management, but not open-ended provisions for traditional uses.
- Standards need to be added to ensure that open space provides connectivity to other open space and best habitat.
- Open space should not be roaded as implied in (E).

Composite Map:

- Falsely shows zoned areas as not affected, but through a process of rezoning existing zoned lands, could be rezoned.

3.44.070 (1)

- What does the term "within the LTR district" mean? Is it referring to within any and even remotely disconnected LTR zones?

3.44.070 (2)

- Including the potential for State Lands to be included within this LTRZ, further opens areas of critical habitat and other ecological resources to levels of development that have not been adequately reviewed for impacts and desirability as these lands are both concentrated and scattered across the county and some are already covered by zoning. If they are proposed for inclusion, a MEPA analysis of this proposal should be completed to inform a decision of this nature.

3.44.070 (2)

- This statement is too vague. When would state land fulfill open space requirements? Why would state land be allowed to meet open space density requirements when its preservation does not directly remove units from development?

3.44.080 (3)

- What happens to zoning if phases are abandoned?

3.44.080 (4)

- Phased applications should have to comply with applicable regulations (e.g. subdivisions, flood plain and lakeshore protection) at the time individual phase is approved, not when application is made. Phase approval can stretch out 20-40 years and important changes to regs may occur within this time frame. See also 3.44.090 (o).
- What is meant by the term “permanent zoning distinct”? What ways are available to change an LTR zone? Can it be converted to traditional zoning?

3.44.090 (6)

- The term “substantially” should be removed as it is not defined and all information required in an EA should be available to both decision makers and the public in the review of these ODP’s because of the uniqueness and significance of these documents.
- A decision to approve an ODP should have the benefit of a complete EA. Section 3.44.090 (m) does not use term substantially.

3.44.090

- It is unclear the area that must be covered by an ODP. This should be clarified to cover the entire LTR district within which future developments or open space set aside will be proposed under the ODP. Otherwise ODP’s could be done on just a subdivision giving added density up to one unit per acre (rather than 1 unit per 2.5 acres under a non-ODP subdivision).
- Who defines “plan area” for an ODP? Criteria for defining a “plan area” should be developed.
- ODP’s need to be large enough to meaningfully evaluate cumulative effects.

3.44.100 (1)

- May ODP’s only be used in a LTR District?
- The Whitefish/Big Mountain plan was called an ODP, but it was treated as a neighborhood plan, not zoning. This confusion needs to be resolved. An ODP is zoning, not a neighborhood plan.
- Where are ODP’s authorized by state law as a zoning tool?

3.44.100 (3a) and 3.44.090 (o)

- The issue of identifying specific time-frames for each phase before an ODP becomes zoning needs to be clarified.
- I would like more assurances that phasing will not be used for speculation (i.e. suggesting that wildlife issues will be addressed in future phases that may never be completed).
- Note: No section is included for Procedure and Implementation for an LTR District, but only for an ODP at 3.44.100

3.44.050 (5)

- Re-subdivision of lots greater than 40 acres may make it impossible to review cumulative impacts and wildlife issues and should be conditioned to prevent this.

Questions:

1. Can an over lay zone replace existing zoning through a zone change request?
2. How does this zoning address the need to reduce development in the wild land urban interface?
3. Overlay zones are required to be consistent with underlying zoning. How are ODP's required to be consistent with underlying zoning? Can PUD's be used in an LTR district? Can ODP's only be used where LTR zone had first been created?
4. ODP calls for "full analysis of the site and surrounding area". What is the surrounding area?
5. Where are FCSR's are standards for ODP? Is an ODP an amendment to zoning, or the growth policy? What is the legal authority for an ODP? What is the fee structure for review of an ODP? What are standards for sufficiency/or quality of an ODP? Who approves an ODP? Does an ODP have 2 hearings separate from establishing a LTRZ?
6. It appears that mixed uses are only allowed in the ODP option and not in subdivision option, is this correct?
7. Where was a change to LTR zone made that requires all subdivisions option to have % of open space; this was discussed, but I don't see that this change was made.